## StudentBounts.com THE CHARTERED INSURANCE INSTIT

## **J02**

## **Diploma in Financial Planning**

## Unit J02 – Trusts

October 2013 examination

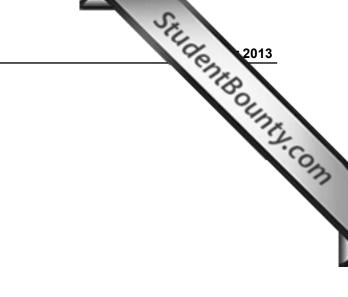
## SPECIAL NOTICES

All questions in this paper are based on English law and practice applicable in the tax year 2013/2014, unless stated otherwise in the question, and should be answered accordingly.

It should be assumed that all individuals are domiciled and resident in the UK unless otherwise stated.

## Instructions

- Two hours are allowed for this paper.
- Do not begin writing until the invigilator instructs you to.
- Read the instructions on page 3 carefully before answering any questions. •
- Provide the information requested on the answer book and form B.
- You are allowed to write on the inside pages of this question paper, but you must NOT write your name, candidate number, PIN or any other identification anywhere on this question paper.
- The answer book and this question paper must both be handed in personally by you to the invigilator before you leave the examination room. Failure to comply with this regulation will result in your paper not being marked and you may be prevented from entering this examination in the future.



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## Unit J02 – Trusts

## Instructions to candidates

# StudentBounty.com Read the instructions below before answering any questions

- Two hours are allowed for this paper which consists of 15 short answer questions and carries a total of • 130 marks.
- You are strongly advised to attempt all questions to gain maximum possible marks. The number of • marks allocated to each question part is given next to the question and you should spend your time in accordance with that allocation.
- Read carefully all questions and information provided before starting to answer. Your answer will be • marked strictly in accordance with the question set.
- You may find it helpful in some places to make rough notes in the answer booklet. If you do this, you • should cross through these notes before you hand in the booklet.
- It is important to show all steps in a calculation, even if you have used a calculator. •
- If you bring a calculator into the examination room, it must be a silent, battery or solar-powered, non-programmable calculator. The use of electronic equipment capable of being programmed to hold alphabetic or numerical data and/or formulae is prohibited. You may use a financial or scientific calculator, provided it meets these requirements.
- Tax tables are provided at the back of this question paper.
- Answer each question on a new page and leave six lines blank after each question part.

Subject to providing sufficient detail you are advised to be as brief and concise as possible, using note format and short sentences on separate lines wherever possible.

## Attempt ALL questions

### Time: 2 hours

- StudentBounty.com 1. Identify the type of trust that is created as a direct consequence of the following scenarios and give reasons for the outcome in each case.
  - A trust was set up by Charles and the trust deed stated it was 'for the benefit of my wife'. (a) Charles has however since divorced from his wife, to whom he was married at the time the trust was created.

(4)

(4)

(2)

(11)

- (b) David is a trustee of a trust. He has now decided to allow his wife, Cynthia, who is not a beneficiary, access to £125,000 from the trust fund to buy a holiday home.
- 2. Kim recently won a substantial sum in the National Lottery. She is considering making a settlement of £300,000 into a trust, of which she will be the trustee for the benefit of her two children, aged 9 and 16. Kim has made no previous settlements.
  - State four advantages of Kim using a discretionary trust to make this settlement. (4) (a)
  - (4) State four disadvantages of Kim using a discretionary trust to make this settlement. (b)
- 3. Jim and Kath are the trustees of a trust set up for the benefit of their sister, Edith, who has both a mental and physical disability. A significant cash sum has recently been transferred to a newly established trust bank account.
  - (a) State the two key responsibilities imposed on the trustees by the Trustee Act 2000, regarding the application of standard investment criteria when investing trust property.
  - (b) Explain to Jim and Kath what general duties, other than those stated in part (a) above, apply to them as trustees.
- Frida has lived in the UK for three years, helping her employer, a Danish furniture company, to 4. establish a franchise in the UK. She expects to stay in the UK for at least a further three years and now wants to set up an excluded property trust.
  - State the conditions that must be fulfilled under the excluded property trust rules in (a) setting up and operating the trust. (4)
  - (b) State the initial and ongoing UK Inheritance Tax treatment of the trust. (2)
- 5. In 2007, Edward set up an Enduring Power of Attorney (EPA). He is not clear on a number of issues and has asked you to explain the following.
  - Whether he should register the EPA, and if so the process required to achieve this. (5) (a)
  - If any further action is necessary should he wish to ensure his attorney acts on his behalf (b) on his medical needs. (2)

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6.		hie and Mary have just been told they can expect to inherit the entire estate of the er's half brother, Donald, who died recently. Donald had not made a Will. State how it would have been determined, by reference to the intestacy rules that Connie and Mary were the sole beneficiaries.	ung
	(a)	State how it would have been determined, by reference to the intestacy rules that Connie and Mary were the sole beneficiaries.	(5)
	(b)	State the conditions which must be met for a deed of variation to alter the distribution of Donald's estate, and be effective for Inheritance Tax purposes.	(7)
7.	Expla	ain briefly the key role and duties of:	
	(a)	The Public Guardian;	(3)
	(b)	The Independent Mental Capacity Advocate.	(3)
8.	(a)	Outline the process required to establish a successful Individual Voluntary Arrangement (IVA).	(6)
	(b)	List <b>four</b> advantages of using an IVA instead of bankruptcy.	(4)
Э.		ain briefly how a bare trust, executed by a parent for their minor child, is taxed in ect of:	
	(a)	Income Tax;	(5)
	(b)	Capital Gains Tax.	(2)
10.		r, a higher-rate taxpayer, is considering making a settlement of an existing unit trust olio into a discretionary trust for the benefit of his grandchildren.	
	Expla	ain the tax position for any capital gains made on;	
	(a)	settlement of assets into the trust;	(3)
	(b)	assets in the trust;	(4)
	(c)	the distribution of trust assets to beneficiaries.	(3)

**11.** In September 2013, Fiona began paying premiums of £200 per month into a guaranteed whole of life policy with a sum assured of £180,000. Fiona has made no previous gifts and has placed the policy into an interest in possession trust, with the intention that on her death the proceeds will be sufficient to meet the Inheritance Tax (IHT) liability.

Describe the IHT treatment of:

(a)	the policy premiums;	(3)
(b)	the trust.	(6)

## Questions continue over the page

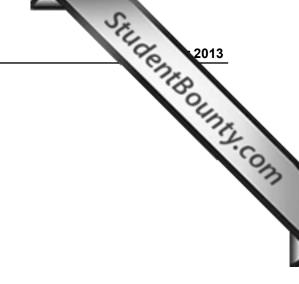
StudentBounty.com The two UK resident trustees of a discretionary trust, created in February 2003 on the deal 12. of the settlor, their father, have recently fully surrendered the trust asset, an onshore investment bond. They have retained the funds for subsequent reinvestment.

Explain, giving reasons the tax treatment of this surrender and upon whom any tax liability will fall. Ignore any Inheritance Tax.

13. A trustee, who was also the sole life tenant, of an interest in possession trust, died in September 2013, leaving Pamela as the sole surviving trustee. Pamela and her two children, Tim, aged 21, and Stephen, aged 15, are the remaindermen, are in good health with no immediate financial needs. The trust assets consist of two rental properties and a small share portfolio.

State the actions that Pamela, as trustee, would need to consider in reviewing the trust. (9)

- 14. Explain briefly the process and filing dates for the payment of an Income Tax liability on a discretionary trust, stating who is responsible for the payment of the tax. (7)
- Explain briefly the three certainties that must be present for a trust to be valid in 15. (a) English Law. (6)
  - State the action trustees can take under the Perpetuities and Accumulations Act 2009, in (b) respect of a trust's perpetuity period where this is uncertain. (2)



The tax tables can be found on pages 8 – 12

	Stur	2013
INCOME TAX		THEOL
RATES OF TAX	2012/2013	2013/2
Starting rate for savings*	10%	10% 6
Basic rate	20%	20%
Higher rate	40%	40%
Additional rate	50%	45%
Starting-rate limit	£2,710*	£2,790*
Threshold of taxable income above which higher rate applies	£34,370	£32,010
Threshold of taxable income above which additional rate applies	£150,000	£150,000
Child benefit charge from 7 January 2013:		
1% of benefit for every £100 of income over	£50,000	£50,000

\*Restricted to savings income only and not available if taxable non-savings income exceeds starting rate band.

MAIN PERSONAL ALLOWANCES AND RELIEFS		
Income limit for Personal Allowance § Personal Allowance (basic if born after 5 April 1948) § Personal Allowance (if born between 6 April 1938 and 5 April 1948) § Personal Allowance (if born before 6 April 1938) §	£100,000 £8,105 £10,500 £10,660	£100,000 £9,440 £10,500 £10,660
Married/civil partners (minimum) (if born before 6 April 1935) at 10% † Married/civil partners (if born before 6 April 1935) at 10% †	£2,960 £7,705	£3,040 £7,915
Income limit for age-related allowances Blind Person's Allowance	£25,400 £2,100	£26,100 £2,160
Enterprise Investment Scheme relief limit on £1,000,000 max	30%	30%
Seed Enterprise Investment relief limit on £100,000	50%	50%
Venture Capital Trust relief limit on £200,000 max	30%	30%

§ the Personal Allowance reduces by £1 for every £2 of income above the income limit irrespective of age (under the income threshold).

+ where at least one spouse/civil partner was born before 6 April 1935.

Child Tax Credit (CTC)

- Child element per child (maximum)	£2,690	£2,720
- family element	£545	£545
Threshold for tapered withdrawal of CTC	£15,860	£15,910

## NATIONAL INSURANCE CONTRIBUTIONS

			Studente 2013
NATIONAL II Class 1 Employee	NSURANCE CO Weekly		S Yearly
Lower Earnings Limit (LEL)	£109	£473	£5,668
Primary threshold	£149	£646	£7,755
Jpper Accrual Point	£770	£3,337	£40,040
Upper Earnings Limit (UEL)	£797	£3,454	£41,450
	CLASS 1	EMPLOYEE CONTR	IBUTIONS

	CLASS 1 EMPLOYEE CONTRIBUTIONS			
Total earnings £ per week	Contracted-in rate/contracted-out (money purchase)	Contracted-out rate (final salary)		
Up to 149.00*	Nil	Nil		
149.01 – 770.00	12%	10.6%		
770.01 – 797.00	12%	12%		
Above 797.00	2%	2%		

\*This is the primary threshold below which no NI contributions are payable. However, the lower earnings limit is £109 per week. This £109 to £149 band is a zero rate band introduced in order to protect lower earners' rights to contributory State benefits e.g. Basic State Pension.

Total earnings £ per week	CLASS 1 EMPLOYER CONTRIBUTIONS			
Total earnings z per week	Contracted-in rate	Contract	ted-out rate	
		Final	Money	
		salary	purchase	
Below 148.00**	Nil	Nil	Nil	
148.01 – 770.00	13.8%	10.4%	13.8%	
770.01 – 797.00	13.8%	13.8%	13.8%	
Excess over 797.00	13.8%	13.8%	13.8%	

\*\* Secondary earnings threshold.

Class 2 (self-employed) Flat rate per week £2.70 where earnings exceed £5,725 per annum. Class 3 (voluntary) Flat rate per week £13.55. Class 4 (self-employed) 9% on profits between £7,755 - £41,450 2% on profits above £41,450.

#### PENSIONS TAX YEAR LIFETIME ALLOWANCE ANNUAL ALLOWANCE 2006/2007 £1,500,000 £215,000 2007/2008 £225,000 £1,600,000 2008/2009 £1.650.000 £235.000 2009/2010 £1,750,000 £245,000 2010/2011 £1,800,000 £255,000 £1,800,000 £50,000 2011/2012 2012/2013 £1,500,000 £50,000 2013/2014 £1,500,000 £50,000

#### ANNUAL ALLOWANCE CHARGE

20% - 45% member's tax charge on the amount of total pension input in excess of the annual allowance.

#### LIFETIME ALLOWANCE CHARGE

55% of excess over lifetime allowance if taken as a lump sum.

25% of excess over lifetime allowance if taken in the form of income, which is subsequently taxed under PAYE.

## **INHERITANCE TAX RATES OF TAX ON DEATH TRANSFERS**

	Stille	2013	
INHERITANCE TAX		SOL.	
RATES OF TAX ON DEATH TRANSFERS	2012/2013	2013/2	. \
Transfers made after 5 April 2013 - Up to £325,000	Nil	Nil	Con
<ul> <li>Excess over £325,000</li> <li>Lifetime transfers to and from certain trusts</li> <li>*For deaths after 5 April 2013, a lower rate of 36% applies where at least 10% of deceased's net estate is left to charity.</li> </ul>	40% 20%	40% 20%	

#### MAIN EXEMPTIONS

Transfers to <ul> <li>UK-domiciled spouse/civil partner</li> <li>non-UK-domiciled spouse/civil par</li> <li>UK-registered charities</li> </ul>	tner (from UK-do	miciled spouse	e)	No limit £55,000 No limit	No limit £325,000 No limit
Lifetime transfers - Annual exemption per donor - Small gifts exemption				£3,000 £250	£3,000 £250
Wedding/civil partnership gifts by - parent - grandparent - other person				£5,000 £2,500 £1,000	£5,000 £2,500 £1,000
100% relief: businesses, unlisted/AIM 50% relief: certain other business asse		in farmland/bu	uilding		
Reduced tax charge on gifts within 7 y - Years before death - Inheritance Tax payable	ears of death: 0-3 100%	3-4 80%	4-5 60%	5-6 40%	6-7 20%

#### EMPLO CAR BENEFIT FOR EES

The charge for company car benefits is based on the carbon dioxide (CO<sub>2</sub>) emissions. There is no reduction for high business mileage users.

## For 2013/2014:

- Cars that cannot emit  $CO_2$  have a 0% charge.
- The percentage charge is 5% of the car's list price for CO<sub>2</sub> emissions of 75g/km or less.
- For cars with  $CO_2$  emissions of 76g/km to 94g/km the percentage is 10%. •
- For cars with CO<sub>2</sub> emissions of 95g/km to 99g/km the percentage is 11%.
- Cars with CO<sub>2</sub> emissions of 100g/km have a percentage charge of 12% and thereafter the charge • increases by 1% for every complete 5g/km to a maximum of 35% (emissions of 215g/km and above).

There is an additional 3% supplement for diesel cars not meeting Euro IV emission standards. However, the maximum charge remains 35% of the car's list price.

- The benefit is calculated as the CO<sub>2</sub> emissions % relevant to the car and that % applied Car fuel to a set figure (£21,100 for 2013/2014) e.g. car emission 100g/km = 12% on car benefit scale. 12% of £21,100 = £2,532.
- Accessories are, in most cases, included in the list price on which the benefit is calculated. 1.
- List price is reduced for capital contributions made by the employee up to £5,000. 2.
- 3. Car benefit is reduced by the amount of employee's contributions towards running costs.
- 4. Fuel scale is reduced only if the employee makes good all the fuel used for private journeys.
- All car and fuel benefits are subject to employers National Insurance Contributions (Class 1A) 5. AF 10 00/

## **PRIVATE VEHICLES USED FOR WORK**

2012/2013 Rates

On the first 10,000 business miles in tax year Each business mile above 10,000 business miles **Motor Cycles** Bicycles

45p per mile 25p per mile 24p per mile 20p per mile StudentBounty.com 24p per mile 20p per mile

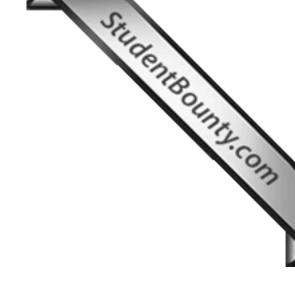
MAIN CAPITAL AND OTHER ALLOWANCES					
		2012/2013	2013/2014		
Plant & machinery (reducing balance Patent rights & know-how (reducing	balance) per annum ures of buildings (reducing balance) per annu	18% 25%	18% 25% 8% 100% 100%		
CO <sub>2</sub> emissions of g/km: 95 Capital allowance: 100	01 April 2013 (Corporation Tax) or 06 April 20 or less* 96-130 0% 18% t year reducing balance	013 (Income Ta 131 or more 8% reducing bala			
	pital expenditure		100%		
•		те	10070		
MAIN 3	OCIAE SECONIT I BENEIT	2012/2013	2013/2014		
Child Benefit	First child Subsequent children Guardian's allowance	<b>£</b> 20.30 13.40 15.55	<b>£</b> 20.30 13.40 15.90		
Employment and Support Allowance	Assessment Phase Age 16 – 24 Aged 25 or over	Up to 56.25 Up to 71.00	Up to 56.80 Up to 71.70		
	Main Phase Work Related Activity Group Support Group	Up to 99.15 Up to 105.05	Up to 100.15 Up to 106.50		
Attendance Allowance	Lower rate Higher rate	51.85 77.45	53.00 79.15		
Retirement Pension	Single Married	107.45 171.85	110.15 176.15		
Pension Credit	Single person standard minimum guarantee Married couple standard minimum	142.70	145.40		
	guarantee Maximum savings ignored in calculating	217.90	222.05		
Bereavement Payment (lump sum)	income	10,000.00 2,000.00	10,000.00 2,000.00		
Widowed Parent's Allowance		105.95	108.30		
Jobseekers Allowance	Age 16 - 24 Age 25 or over	56.25 71.00	56.80 71.70		
Statutory Maternity, Paternity and	ť				

## **CAPITAL GAINS TAX**

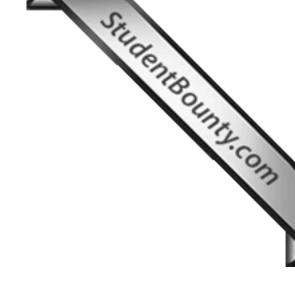
	Still	0040
CAPITAL GAINS TAX		2013 2014 2014
EXEMPTIONS	2012/2013	2013/
Individuals, estates etc Trusts generally Chattels proceeds (restricted to five thirds of proceeds exceeding limit)	£10,600 £5,300 £6,000	£10,900 £5,450 £6,000
TAX RATES		
Individuals: Up to basic rate limit Above basic rate limit	18% 28%	18% 28%
Trustees and Personal Representatives	28%	28%
Entrepreneurs' Relief* – Gains taxed at: Lifetime limit *For trading businesses and companies (minimum 5% employee or director shareholding) held for at least one year.	, ,	10% £10,000,000

CORPORATION TAX					
	2012/2013	2013/2014			
Full rate	24%	23%			
Small companies rate	20%	20%			
Small companies limit	£300,000	£300,000			
Effective marginal rate	25%	23.75%			
Upper marginal limit	£1,500,000	£1,500,000			

VALUE ADDED TAX					
	2012/2013	2013/2014			
Standard rate Annual registration threshold Deregistration threshold	20% £77,000 £75,000	20% £79,000 £77,000			



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